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August 13, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street N.W.
Room 222
Washington, DC 20554

SUBJECT: CC Docket No. 94-129: Comments Regarding "FCC Proposes Further Action to Prevent Slamming"

Quick Response is an independent third party verification company providing live verification for carriers and resellers of long distance, cellular, and soon, local service.

This letter will address three main issues relating to the dramatic increase in unauthorized switching of telephone service ("slamming") incidents. The content of this letter is the product of discussions with our management team, as well as other companies in the third party verification business.

This letter's purpose is to offer comments from the perspective of those who are in the business of trying to prevent slamming with the goal of improving the reputation of this segment of the industry. Ultimately, if the proper checks and balances exist and third party verification is performed correctly, consumers benefit, fewer regulatory issues arise, and third party verification companies such as Quick Response become more respected and valued.

The issues I will address are:

1. Independence of "independent" third party verification companies.

Currently, there are companies operating that have positioned themselves as "independent" third party verification companies. In reality, these companies are owned or controlled by individuals that also own or operate companies performing telemarketing functions. In some cases, the ownership or control of the company is vested in the spouse's name or a "former" employee to flout the rules.

The lack of independence causes at least three direct problems, and numerous indirect problems. First, there is clearly a disincentive for the "independent" verification company to reject bad sales. One of the main purposes of this type of arrangement is to enhance the profitability of the telemarketing operation. Only a fraction of the illegally switched customers will terminate the new service, and a much smaller fraction will ever file a complaint.

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Second, free market competition becomes stifled due to the artificial pricing in these situations. The goal of the verification room in this type of operation is to enhance telemarketing profits. Market pricing for verification is not a consideration and, in some cases, overhead is shared or completely absorbed by the telemarketing facility. Therefore, pricing is below market pricing (and sometimes break even) when compared with legitimate, truly independent verification companies. Competition is reduced; legitimate independent verification companies cannot effectively bid for this business and competing telemarketing firms playing by the rules have a diminished competitive position.

Third, the third party verification method appears to be ineffective when these types of problems are reported. A cursory investigation reveals that a telemarketing firm used a third party verification company, but that the "independent" company "missed" the slamming occurrence.

Proposed solution: A proposed solution to this issue revolves around making the decision to bend these rules turn into a money losing proposition for both the telemarketing room and the person posing as an independent operator of the verification company. Regulations providing for substantial financial penalties, including personal liability, for direct or indirect ownership or control of third party verification companies would reduce the incentive to start or continue these types of operations. One possible way to determine independence would be to require a verification company to disclose the percentage of verification revenue coming from the largest telemarketing customer. If a verification company has a disproportionately high percentage attributed to one customer it would trigger a more in depth look into the true independence of the relationship.

2. As competition in the telemarketing arena has increased, telemarketers are resorting to more blatant and fraudulent schemes to gain new business.

In recent months, the incidence of telemarketers misrepresenting themselves, their company relationship, or the number of consumers taking some action to avoid the termination of service, has dramatically increased. For example, telemarketers increasingly have been telling customers that they are with the local exchange carrier (LEC) and that the customer must say "yes" (or similarly positive response to ensure that the service is switched) to all of the questions when the person comes on the phone. The consumer is advised that a positive outcome will allow the consumer to keep his or her local and long distance service.

Another scheme involves the telemarketer implying that they are calling to make the consumer aware of a new combined billing feature. In most cases in this type of scenario, the telemarketer represents himself to be part of the LEC. As above, the consumer must respond in a coached way if he or she is to receive the desired outcome.

Obviously, for many customers, this ploy does not work. However, there is a percentage of the population, usually elderly, less educated, and/or possessing very poor business

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knowledge, on which this ploy is successful. A trained verifier can usually spot this type of fraud by the subtle nuances (e.g., hesitation, confusion, agitation, etc.) in the customer's voice and prompt the customer to express their concern.

A more obvious situation occurs when the consumer begins to ask the verifier a question such as, "I'm not going to switch any of my services am I?" and the telemarketer attempts to intervene. For Quick Response, the conversation is terminated and the sale is instantly rejected.

Numerous sales have been rejected by Quick Response due to the two occurrences listed above and, as stated above, these and other types of schemes are increasing on a daily basis.

Proposed solution: The addition of a few compulsory questions to the verification script will help to reduce the incidence of this type of fraud. If written properly these questions will help ensure that customers fully understand that they are switching long distance carriers.

For example, the verifier could say, "You do understand Mr./Ms. Consumer that this is not a mandatory program or change and that the representative you spoke with is not with your local phone company or your current long distance carrier. Furthermore, you do authorize XYZ Telecom to be your long distance provider for the lines that we discussed - is this correct?"

The delicate balance with this issue is determining the correct amount of cumbersome regulation on telemarketing firms (the vast amount of which are doing business properly) versus the needs of those consumers who are particularly easy prey for fraudulent telemarketers. Too much mandated scripting may cause lengthy, wordy calls which will reduce sales and profitability. Additionally, it is not likely that today we could anticipate all of the schemes that creative, commission-driven telemarketers will invent tomorrow.

Taking the other position, it appears that there should be some minimum verbiage that should be included in all scripts so that reputable telemarketing firms are not at a distinct disadvantage and are not inclined to move toward the gray areas to compete with less scrupulous firms.

3. There is a relatively new technology that has emerged which proposes to automate the verification process. Called an "automated attendant," this device automatically records, in much the same manner as an answering machine, the consumer's response to a pre-recorded script.

On the surface this method sounds almost identical to live verification. Automated attendant companies promoting this to telemarketers, and seeking to joint venture with Quick Response, claim that this process improves the verification process in a number of ways. First, they claim that it standardizes the verification scripting process. There will not

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be any human variations in presenting a verification script. Fewer human variations, and the human factor in general, they argue, is better.

Second, they claim that the customer will be given a yes-no decision, or in essence, a binary choice and that confused consumers will say "no" if there is an attempt to mislead them or if they are confused.

Third, they claim that the automated attendant returns a percentage of the calls automatically to prevent the problem of fraud in the case where a person misrepresents his or her identity and there is not actually a good sale.

The primary reason for the introduction and initial interest in the automated attendant is the substantially reduced cost to provide a verification. A machine is much less expensive than a human. It does not take breaks, call in sick, take vacations, etc. The automated attendant is being marketed to telemarketing firms (and to Quick Response) not on the basis of the points above or other issues relating to improving the quality aspect, but solely on the basis of lowering the costs of verification.

Concerning the differences between live third party verification and the automated attendant, it is clear that where humans are involved there is variability in performance. The human factor, however, is exactly what is needed to detect and prevent many of the schemes that are geared toward tricking customers into giving certain answers when the verifier is brought on line.

The telemarketer knows exactly what questions the verifier will ask, and usually in which order they will be asked. The telemarketer will then coach the customer to answer in a way that will cause the sale to be approved. As mentioned in issue two above, it is through experience and constant training that verifiers detect nuances in a customer's response. For Quick Response, and for other live verification companies as well, this is a significant cause for rejected sales.

With an automated attendant, the ability to detect this type of fraud will be substantially reduced, or eliminated, for several reasons. First, there is a substantial difference between human interaction and an interaction with an automated listening device. Most people, even experienced business people accustomed to leaving messages on voice mail, are more rigid or nervous about speaking to a machine versus a human. This is magnified for those who are not accustomed to dealing with voice mail or other automated devices.

Quick Response questions whether an anxious elderly person, after being coached and told what to say, will say "no" if the machine states something and waits in silence for a response. Many will say "yes" so that they do not appear foolish, "miss" some special opportunity, or to "prevent their local telephone service from being terminated" if they do not respond correctly.

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Additionally, by removing the human factor, the decision is binary with the only possibility being a yes-no decision. There is no opportunity for the consumer to check or verify information. As I am sure that you are aware, each telemarketing room provides Quick Response and other live verification companies with "rebuttal" forms. On these forms are answers to many of the questions asked by consumers during the verification process. These forms would not be necessary if the process were truly as binary as the automated attendant companies suggest. In fact, the majority of the verifications that Quick Response performs rely on the rebuttal form to provide clarifying information to the consumer before he or she decides to proceed with a change in service.

Regarding the issue of automatic callback provided by the automated attendant, there is a potential problem with this method. For businesses there is usually a switch board or other screening device to go through prior to reaching the decision maker with whom the machine previously recorded. Automated attendants do not have the ability to handle this. Additionally, an automated callback that does reach a consumer is not able to provide any additional information, answer any questions, or clear up any confusion or potential fraud.

To contrast this with live verification, for some telemarketed customers, verifiers call a randomly chosen percentage and verify that they were the ones who approved the change and answer any questions or concerns that they customer may have. It is surprising how many questions arise a few minutes after a consumer is off the phone with a telemarketer that has coached the consumer so that a sale would go through.

By way of example, one Quick Response customer experimenting with the automated attendant put a small percentage of its telemarketing rooms into the automated system. Within a short period of time after the automated system began performing the telemarketing room's verifications, a few of the telemarketing rooms began to call Quick Response (in the mistaken belief that Quick Response was doing the verification) due to customers' complaints about slamming incidents that had just occurred. The automated system was not catching the types of problems that live verifiers, who are trained and re-trained to detect the newest and latest scams, are able to pick up on.

In general, Quick Response's analysis regarding automated attendants is similar to the automatic pilot mechanism in an airplane. When everything works exactly as it should, the automated systems may pose few problems that could be rectified. The introduction of negative variables, however, require a response that only human beings are capable of interpreting and reacting to (in the case of verification it would be fraud, misrepresentation, or other hard to detect issues designed by the telemarketer to push the sale through when it really should not be approved). In theory, automatic pilots today have the capability to take off, fly, and land planes with no pilot involvement. In practice, however, airlines have not cut pilots (or even copilots) out of the cockpits due to the variables that machines cannot yet manage.

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Although Quick Response believes that this system is substantially inferior to live verification we are actively pursuing the acquisition of an automated attendant system. Quick Response will be adding an automated attendant to our offering of services for one reason. We are solely in the business of independent third party verification and cannot afford to stay away from a potential technology with which our current and future customers may want to experiment or adopt to save money.

Quick Response has two types of customers and prospects. First are those who will not consider the automated attendant because they realize the substantial problems that will occur. They realize how easily this type of system can be manipulated and realize that, although there will be a short term saving in verification, there will be a much larger cost in reputation and future costs. They typically look longer term, attempt to minimize slamming, and will invest more to prevent slamming.

The second type of customer is asking us to provide the service and believe that they are protected legally and are covered by regulations because they are meeting the letter of the law. They are less concerned about slamming as long as they are not fined and they have covered their bases. To them automated attendants are inexpensive "fine" insurance. These company's incentives are to maximize immediate profit, put the sale on their books, immediately sell the sale and residual income stream, and get out of the business or change the business name when the heat of scrutiny bears down on them.

For the record, although it is likely that we will soon offer this service, Quick Response believes that it is detrimental to the consumer, to the telemarketing firm that relies on this method to stop bad sales, to the long distance carrier, to the verification company, and to our industry in general.

Proposed solution: Prior to giving actual or tacit approval to the automated attendant systems for use in third party verification, perform an in depth study to determine the automated attendant's effectiveness, or ineffectiveness, in protecting consumers from slamming. This is not a situation where the marketplace is without a satisfactory method to obtain third party verification. Additionally, with further changes to the regulations, live third party verification can be made more effective. Without a moratorium on the use of automated attendant systems, companies like Quick Response will be forced (by companies seeking the cheapest price, regardless of effectiveness) into using an inferior verification method to remain competitive in the marketplace.


As a final note, Quick Response has found that most telemarketing firms that are in business for the long term operate honorably and seek to acquire customers that truly want their products. To these reputable companies the main focus is on attempting to control, monitor, and police rogue telemarketers. We have found that these companies have proactively addressed all of the problems discussed in this letter.

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Unfortunately, some companies are investing most of their time in an attempt to meet the minimum federal and state regulatory requirements, or to build a case that they have met the letter of the law regarding those requirements. These companies make the case for the least effective and least restrictive regulations that can be reasonably argued. In many cases, these types of firms are in some way violating one or all of the issues addressed in this letter.

Please feel free to contact me on these or any other related issues if you believe that I may be of further assistance to you.

Sincerely,



John J. Zentgraf, President
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